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09/738,819	12/15/2000	Paul Nysen	XCI 232-KFM	1585

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EXAMINER

BROWN, VERNAL U

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 11/17/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/738,819

**Applicant(s)**

NYSEN, PAUL

**Examiner**

Vernal U Brown

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

This action is responsive to communication filed on August 28, 2003.

#### ***Response to Amendment***

The examiner has acknowledged the amended claims 1, 4, and 5, also the cancellation of claim 2.

#### ***Response to Arguments***

Applicant's arguments filed August 28, 2003 have been fully considered but they are not persuasive.

Regarding applicant's argument concerning dual co-located retrieval devices, Westman teaches a transponder system for the localization of objects and transponder includes a paging receiver (abstract). The reference of Westman teaches command from the command center to the transponder is transmitted by the paging network (col. 3 lines 31-34) which show an association between a paging receiver and the transponder and the command center further includes a computer (col. 6 lines 12-13).

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1, 3-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 3-8, the phrase " the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins et al. U.S Patent 5576692 in view of Chanroo et al. U.S Patent 5684859 and further in view of Westman et al. U.S Patent 6236836.

Regarding claim 1, Tompkins et al. teaches apparatus (figure 2) for determining the location of an item, from among a plurality of like items (col. 1 lines 30-32), the apparatus comprising, in combination:

a paging device (10) adapted to be located on or near the item, the paging device having a unique paging device identification code (col. 2 line 27) and including:

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an RF receiver for receiving and detecting RF transmissions from a commercial paging service (col. 2 line 20), the RF transmissions including a paging device identification code for a particular paging device and a paging message associated therewith (col. 2 line 27).

Tompkins et al. further teaches the transmission of the code bearing the assign code of the beeper and causing the pager assign to the missing luggage to emit an audible signal (col. 2 lines 45-48) but is not explicit in teaching a comparator, connected to the RF receiver, for determining when the paging device identification code received from the commercial paging service equals the paging device identification code for the respective paging device and is also silent on teaching a locator transmitter adapted to be co-located with the item and the paging device and a transponder tag adapted to be co-located on or near item with the paging device. Cahnroo et al. in an art related pager receiver teaches a comparator, connected to the RF receiver, for determining when the paging device identification code received from the commercial paging service equals the paging device identification code for the respective paging device represents a stand means of addressing a paging device (col. 6 lines 55-59) but is also silent on teaching a locator transmitter adapted to be co-located with the item and the paging device and a transponder tag adapted to be co-located on or near item with the paging device. Westman et al. in an art related Transponder System For Localization Of An Object teaches a transponder having the means for emitting an RF signal in response to an RF interrogation signal (col. 6 lines 10-15) and further teaches the use of the paging network to control the transponder (col. 3 lines 5-9) and a command center (interrogator) with a computer (22) for receiving the response signal (col. 6 lines 12-13).

It would have been obvious to one of ordinary skill in the art to have a transponder with the means for emitting an RF signal in response to an RF interrogation signal and an interrogator for receiving the response signal in Tompkins et al. in view of Chanroo et al. as evidenced by Westman et al. because Tompkins et al. in view of Chanroo et al. suggests a transceiver for receiving command signal and transmitting location information and Westman et al. teaches a transponder having the means for emitting an RF signal in response to an RF interrogation signal and further teaches the use of the paging network to control the transponder and a command center (interrogator) with a computer for receiving the response signal.

Regarding claim 4, Tompkins et al. is silent on teaching the paging messages includes a command to switch off the tag and a tag control device connected to the paging device for preventing the tag from responding to an RF interrogation when the switch off command is received by the paging device. Westman et al. in an art related Transponder System For Localization Of An Object teaches the use of a page message to disable the transponder (col. 8 lines 1-3). Westman et al. further teaches the control logic performs the control command operation receive from the paging device (col. 4 lines 30-36), therefore control logic is the control device for controlling the respond to the page command including preventing the tag from responding to an RF interrogation when the switch off command is received by the paging device.

It would have been obvious to one of ordinary skill in the art to for the paging message to include a command to switch off the tag and a tag control device connected to the paging device for preventing the tag from responding to an RF interrogation when the switch off command is

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received by the paging device in Tompkins et al. as evidenced by Westman et al. because Tompkins et al. suggests receiving paging messages for locating an object and Westman et al. teaches the use of a page message to disable the transponder and further teaches the control logic performs the control command operation receive from the paging device, therefore control logic is the control device for controlling the respond to the page command including preventing the tag from responding to an RF interrogation when the switch off command is received by the paging device.

Regarding claim 5, Tompkins et al. is silent on teaching a CPU coupled to the transponder reader for initiating a page by the commercial paging system. Westman et al. in an art related Transponder System For Localization Of An Object teaches the command center that initiates the page is connected to a computer system (col. 6 lines 12-13) and a computer system inherently includes CPU.

It would have been obvious to one of ordinary skill in the art to have a CPU coupled to the transponder reader for initiating a page by the commercial paging system in Tompkins et al. as evidenced by Westman et al. because Tompkins et al. suggests receiving paging messages for locating an object and Westman et al. teaches the command center that initiates the page is connected to a computer system and a computer system inherently includes CPU.

Regarding claim 6, Tompkins et al. is silent on teaching a locator transmitter produces, and the locator device receives, a RF locator signal. Westman et al. in an art related Transponder System For Localization Of An Object teaches a locator transmitter (7) produces the locator signal (col. 4 lines 38-39) and the command center receives the locator signal (figure 1).

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It would have been obvious to one of ordinary skill in the art to produce the locator signal and the locator device receives the locator signal in Tompkins et al. as evidenced by Westman et al. because Tompkins et al. suggests transmitting and receiving paging messaging for providing object location and Westman et al. teaches locator transmitter produces the locator signal and the command center receives the locator signal.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins et al. U.S Patent 5576692 in view of Chanroo et al. U.S Patent 5684859 in view of Westman et al. U.S Patent 6236836 and further in view of Friedman et al. U.S Patent 6412086.

Regarding claim 3, Tompkins et al. in view of Chanroo et al. in view of Westman et al. is silent on teaching the transponder tag utilizes energy from the RF interrogation to transmit the RF signal. Friedman et al. in an art related Radio Frequency Identification tag teaches a radio frequency transponder extracting energy from the interrogation signal (col. 4 lines 14-16). One skilled in the art also recognizes that it is conventional practice for a passive tag to extract its energy from the interrogation signal.

It would have been obvious to one ordinary skill in the art for the transponder tag to utilize energy from the RF interrogation signal to transmit the RF signal in Tompkins et al. in view of Chanroo et al. in view of Westman et al. as evidenced by Friedman et al. because Tompkins et al. in view of Chanroo et al. in view of Westman et al. suggests a transceiver for receiving command signal and transmitting location information and Friedman et al. teaches a radio frequency transponder extracting energy from the interrogation signal and one skilled in the art also recognizes that it is conventional practice for a passive tag to extract its energy from the interrogation signal.



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Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins et al. U.S Patent 5576692 in view of Chanroo et al. U.S Patent 5684859 in view of Westman et al. U.S Patent 6236836 and further in view of Elliot et al. U.S Patent 6424928.

Regarding claims 7 and 8, Tompkins et al. in view of Chanroo et al. in view of Westman et al. teaches the use of RF locator signal (col. 2 lines 22-23, U.S Patent 5576692) but is silent on teaching the locator device produces and the locator receiver receives an infrared or an ultrasound signal. One skilled in the art recognizes that infrared and ultrasound signals are widely used as an alternative wireless signal to radio frequency as evidenced by Elliot et al. (col. 9 lines 61-65).

It would have been obvious to one of ordinary skill in the art for the locator device to produce and the locator receiver receive an infrared or an ultrasound signal in Tompkins et al. in view of Chanroo et al. because one skilled in the art recognizes that infrared and ultrasound signals are widely used as an alternative wireless signal to radio frequency as evidenced by Elliot et al.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on M-Th, 8:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

  
Vernal Brown  
November 3, 2003

  
BRIAN ZIMMERMAN  
PRIMARY EXAMINER